

experience. Because this affidavit is submitted for the limited purpose of establishing probable cause in support of the application for an arrest warrant, it does not set forth each fact that I or others have learned during this investigation.

Applicable Law

4. 18 U.S.C. § 1361 makes it an offense to willfully injure or commit any depredation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof, or attempts to commit any of the foregoing offenses.

Statement of Probable Cause

5. Since on or about May 26, 2020, protesters have gathered regularly in Portland public areas including Elizabeth Caruthers Park, Lownsdale Square, Chapman Square, and Terry Schrunk Plaza among others. The Multnomah County Justice Center, which contains Portland Police Bureau's (PPB) Central Precinct and the Multnomah County Detention Center (MCDC), the Mark O. Hatfield United States Courthouse (Hatfield Courthouse), and the Edith Green-Wendell Wyatt Federal Building are across the street from three of these public areas. The federal government owns the entire city block (Block #24) occupied by the Hatfield Courthouse, as depicted below. Easements have been granted for the sidewalks surrounding the Hatfield Courthouse, but the property boundary extends past the sidewalks and into the streets surrounding the courthouse.

Page 3 – Affidavit of Micah Coring

intensity lasers targeting officers' eyes, thrown rocks, bottles, and balloons filled with paint from demonstrators while performing their duties.

7. During the morning of March 11, 2021, concrete highway dividers and fencing had been removed from the western side public entrance by construction crews. These barriers had been erected during the summer of 2020 to protect the facility from nightly vandalism. Early in the afternoon, 20-30 demonstrators dressed in black clothing vandalized the western side public entrance, breaking a large window. Following this demonstration, construction crews returned to the Hatfield Courthouse and affixed plywood and 2x4 boards to the building's windows and façade in anticipation for a second demonstration which was advertised for the evening. As evening wore on, approximately 50 protesters were gathered within one block of the Hatfield Courthouse.

8. Between 9:30pm to 10:15pm, several of the 50 demonstrators removed the plywood and 2x4s from the building's western entrance, started a fire, broke windows with thrown objects, and spray painted graffiti on the building's exterior. A window to the south of the main entrance on the west side, measuring approximately 80"x 86" was partially broken by an unknown person using a 2x4 board. At approximately 10:17pm, a Multnomah County Deputy was monitoring security video at the Multnomah County Justice Center located next door to the Hatfield Courthouse when he observed a heavy-set white male, with sleeve tattoos,

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wearing tan pants, a grey shirt, neon orange shoes, and a mask with purple filters use a scooter to fully break the partially damaged window. The individual with the scooter is shown below:



9. The description of the person was passed to FPS personnel via radio. The clothing description, the subject's location in relation to the building, and a description of a wheelchaired person who appeared to accompany the subject, aided FPS officers in making a targeted arrest of HOWARD.

10. At approximately 11:30pm, I met with a deputy at the Multnomah County Justice Center where he replayed footage of HOWARD breaking the window. The angle of the video is from above and south of the southwest corner of the Hatfield Courthouse. The camera's height and angle provide a view of the Hatfield Courthouse's southwest corner, structural pylons, and

the windows for the General Services Administration's (GSA) office. The video was time-stamped. The video showed that, at 10:16 p.m. one of the windows for the GSA office was partially broken, and a 2x4 board was lying against the frame. I observed HOWARD walk up to the window with a green accented scooter in his hands which he used to strike the window twice, fully breaking out the glass. I recognized the scooter as being a Lime Brand rental scooter commonly found throughout downtown Portland.

11. At approximately 11:44 pm, I conducted a custodial interview of HOWARD in the garage of the Hatfield Courthouse. The interview was recorded. I identified myself using agency-issued credentials and read HOWARD a Miranda Warning from an agency-issued card. HOWARD invoked his rights and requested an attorney. I concluded the interview with no further questions. HOWARD's distinctive appearance and build matched the individual depicted in the video and the description given to me by the Deputy. HOWARD's khaki colored pants and gray t-shirt stood out in contrast, especially in contrast to the predominant "Black Bloc" attire of the other demonstrators. The deputy who recorded HOWARD's arrest believed that HOWARD was the individual who broke out the window. Photographs of HOWARD and his clothing at the time of the interview are included below.





12. At approximately 11:55 pm, I took photos and measurements of the broken window. The window could only be documented from the interior due to the continued criminal activity occurring outside. The window measured approximately 86" wide and 80" tall. For officer safety reasons, the scooter could not be retrieved from the patio area outside the window. Since this incident, I have had a discussion with GSA property manager who said he expects the repair of the broken window will exceed \$1,000 because he recently replaced a smaller window that cost in excess of \$2,500. Below is a photo of the broken window from the interior of the office space.

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Conclusion

13. Based on the foregoing, I have probable cause to believe that Darby HOWARD willfully damaged and destroyed property owned by the United States, that is, a plate glass window on the west side of the Mark O. Hatfield United States Courthouse, which value exceeds \$1000, in violation of 18 U.S.C § 1361. I therefore request that the Court issue a criminal complaint and arrest warrant charging HOWARD with that offense.

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14. Prior to being submitted to the Court, this affidavit, the accompanying complaint and the arrest warrant were all reviewed by Assistant United States Attorney (AUSA) Greg Nyhus. AUSA Nyhus informed me that in his opinion, the affidavit is legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.

(By telephone)

Micah CORING
Senior Special Agent
Federal Protective Service

Sworn to by telephone or other reliable means in accordance with Fed. R. Crim. P. 4.1
at 11:05 am on March 12, 2021.

Jolie A. Russo
HONORABLE JOLIE A RUSSO
United States Magistrate Judge